

SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE
MSC, PRE-TRIAL, AND TRIAL REQUIREMENTS
DEPARTMENT 7
JUDICIAL SECRETARY: 951-955-1554

The Court orders the counsel appearing in Department 7 to comply with the following requirements. “Counsel” also refers to any party who is not represented by an attorney.

1. MANDATORY SETTLEMENT CONFERENCE

- a. Mandatory settlement conferences will be set in all cases, approximately four weeks before the trial date. They are held on Mondays and Tuesdays in department 163.
- b. All parties must file and serve a Mandatory Settlement Conference Statement as required by California Rules of Court, rule 3.1380. Settlement conference statements must include a general description of the settlement efforts undertaken by the parties, but need not disclose the contents of any settlement negotiations or the amounts discussed.
- c. When a governmental agency is named as a defendant, the Court interprets “full authority to settle the case” as used in California Rules of Court, rule 3.1380(b), to mean authority to pay a sum equal to that demanded in the plaintiff's settlement conference statement. If legislative approval would be required to pay the plaintiff's demand, the agency must have a representative present with authority to commit the agency to a recommendation to the legislative body to pay an amount equal to the plaintiff's demand.

2. ISSUES CONFERENCE

- a. Not less than 15 days before the final Trial Management Conference, trial counsel for all parties shall meet and confer at an Issues Conference. Lead counsel for the plaintiff shall be responsible for arranging the Issues Conference at a mutually agreeable time and place.
- b. At the Issues Conference in advance of trial, whether jury or nonjury, the parties shall:
 - (1) Disclose the names of all witnesses the parties intend to call, except those solely for impeachment or rebuttal. Counsel shall then prepare a joint witness list that includes (A) the name and area of residence of each percipient witness and (B) the name, occupation, and area of the principal office of each expert witness. Except for good cause, no party will be allowed to call in their case-in-chief any witness not on that list.
 - (2) Exchange all exhibits that the parties intend to use, except those for impeachment or rebuttal. Counsel shall then prepare a joint exhibit list that includes the exhibit numbers assigned to each exhibit, a brief description of each exhibit, whether any party objects to the admission of the exhibit and, if so, a brief description of the nature of the objection. Except for good cause, no party will be allowed to introduce in the party's case in chief any exhibit that is not on that list.
 - (3) Prepare a joint statement of parties and counsel, listing the full name of each party still in the action and the name of the attorney, if any, who will represent that party at trial.

- (4) Prepare a joint statement of claims and defenses, describing the claims being asserted, the relief being sought (including the nature and amount of each element of damages for which recovery is sought), and the defenses being asserted.
- (5) Discuss the possibility of stipulating to facts or issues of law that are not reasonably disputable. Counsel shall then prepare a stipulation reciting the precise facts or legal issues to which the parties agree.
- (6) Prepare a joint statement of unavailability, describing the times (if any) during the anticipated duration of the case and two weeks thereafter when counsel or any witness will be unavailable for trial and the reasons for any unavailability.
- (7) Prepare a joint written statement regarding interpreters, indicating whether an interpreter will be needed for any witness and, if so, describing the arrangements that will be made for an interpreter.

c. At the Issues Conference in advance of a jury trial, the parties shall also:

- (1) Prepare a neutral, non-argumentative joint statement of the case suitable for reading to the jury venire. It should include the basic uncontested facts and, to the extent necessary, the contentions of the parties. It should rarely exceed four or five simple sentences. It should use plain English, without legal or technical jargon.
- (2) Prepare a joint statement of any particular topics unique to this case that the parties would like the Court to include in its voir dire.
- (3) Prepare a written stipulation, or, if there is no agreement, the separate statements of counsel, regarding: the number of jurors (if less than 12); the number of alternates; the number of peremptory challenges for each party as to jurors and as to alternates; the order of exercising peremptory challenges (if there are more than 2 parties); and whether the parties stipulate that if the last alternate juror is required to fill the place of a regular juror and one more juror is unable to complete service, a vote of 9 of 11 will constitute a verdict.
- (4) Discuss the need for motions in limine.
- (5) Prepare a joint set (not merely a list) of the actual jury instructions being requested. They should be complete, covering all issues likely to arise in the case. They should also be in a form ready to be given to the jury, with all brackets removed and all blanks filled in. Each instruction should start on a separate page. Submit CACI instructions to the extent possible. BAJI instructions are not acceptable unless the same subject is not covered by a CACI instruction. The instructions should be divided into two groups: those to which all parties agree, and those to which some party has an objection.
- (6) Prepare an agreed-upon verdict form.

3. JOINT PRETRIAL STATEMENT

The statements described above in subdivisions 2.b.(3) through 2.b.(7) and, if applicable, 2.c.(1) through 2.c.(3) shall be compiled into a single document entitled Joint Pretrial Statement, with a single caption and a single set of signatures.

4. MOTIONS IN LIMINE

- a. Motions in limine shall be brought only if the parties disagree as to the subject of the motion. If there is no disagreement, then the issue shall be included in the parties' stipulation of facts and legal issues.
- b. Every motion in limine:
- (1) Shall be in writing.
 - (2) Shall be numbered sequentially according to the party bringing it (e.g., Plaintiff's No. 1, Plaintiff's No. 2, Defendant Smith's No. 1, etc.).
 - (3) Shall be tailored to the specific facts and issues of the case. Motions seeking rulings that would merely be declaratory of existing law are improper. (*Kelly v. New West Federal Savings* (1996) 49 Cal.App.4th 659, 670.)
 - (4) Shall be supported by a memorandum of points and authorities.
 - (5) Shall be supported by a declaration on personal knowledge establishing any facts upon which the moving party relies in moving for that relief. "Motions in limine, to the extent that they rely upon a factual foundation, are no different than any other pretrial motion and must be accompanied by appropriate supporting documents. Absent an appropriate factual showing to support the motion, the court should not entertain the motion." (*Kelly v. New West Federal Savings, supra*, 49 Cal.App.4th at p. 671, fn. 3.)
 - (6) Shall be accompanied by a proposed order that states the precise relief sought. If the motion seeks to exclude certain evidence, the proposed order shall describe the precise evidence being excluded, shall direct counsel not to refer to the excluded evidence during trial, and shall direct counsel to advise their parties and witnesses not to refer to it.
- c. Any motion seeking to preclude the introduction of any evidence or to otherwise prevent the mention or display of inadmissible and prejudicial matter in the presence of the jury:
- (1) Shall clearly describe the specific evidence or matter alleged to be inadmissible and prejudicial.
 - (2) Shall be supported by a declaration that both:
 - (A) Demonstrates that the subject of the motion has been discussed with opposing counsel, and that opposing counsel either (i) has indicated that such matter will be mentioned or displayed in the presence of the jury or (ii) has refused to stipulate that such matter will not be mentioned or displayed in the presence of the jury unless and until it is admitted into evidence; and
 - (B) Explains the specific prejudice that will be suffered by the moving party if the motion is not granted.
- d. Ordinarily, a motion seeking to exclude evidence that differs from a party's discovery responses will not be granted. "It is a misuse of a motion in limine to attempt to compel a witness or a party to conform his or her trial testimony to a preconceived factual scenario based on testimony given during pretrial discovery. . . . Other than issue preclusion based on responses to requests for admissions, sanctions for abuse of the discovery process, or a clear case of waiver or estoppel, a court abuses its discretion when it precludes a party from trying a case on a theory consistent with existing evidence, even though the pretrial testimony of the party . . . is contrary to the theory." (*Kelly v. New West Federal Savings, supra*, 49 Cal.App.4th at pp. 672-673.) Instead of exclusion, the remedy is impeachment with the prior inconsistent testimony or discovery response.

e. Any motions in limine shall be served on opposing counsel by fax or overnight mail not later than four days after the Issues Conference.

5. EXHIBITS

a. Exhibits must be numbered, each party taking a block of numbers (e.g., plaintiff will use numbers 1-200, defendant numbers 201-400, a third party 401-600). Each exhibit shall bear a separate exhibit number (i.e., avoid marking exhibits "4a, 4b, 4c..."). However, enlarged exhibits may be marked with the number of the exhibit from which they are enlarged and a letter (e.g., Exhibit "4A" would be an enlargement of Exhibit 4).

b. All exhibits must be pre-marked with exhibit tags (red for plaintiffs and blue for defendants) that counsel may obtain from the clerk or on the Court's website. (See the web address below in paragraph 11.) On documentary exhibits, the tags shall be placed on either the lower right hand corner of the exhibit or on the back of the last page of the exhibit.

c. Documentary exhibits and photographs (8 1/2" x 12" or smaller) are to be placed in a loose-leaf notebook with numbered dividers.

d. For ease of reference during testimony, each page of each exhibit shall bear a page number. Within each exhibit, the page numbers shall start with 1 and shall continue consecutively for the number of pages in that exhibit.

6. TRIAL MANAGEMENT CONFERENCE

a. The Court shall conduct a final Trial Management Conference before the date set for trial. Typically, these will be set for the Friday before the Monday set for trial, at 10:00 a.m. or thereafter. Trial counsel for all parties must attend in person.

b. Not later than four court days before the final Trial Management Conference, counsel shall submit to the Court the documents described in subdivisions 2.(b) and 2.(c) (i.e., the joint witness list, the joint exhibit list, the joint pretrial statement and, if applicable, the motions in limine, jury instructions, and verdict forms) by delivering them directly to the clerk of department 7 (or, in her absence, to the secretary for this department). By the same time and in the same manner, counsel shall file and serve any responses to motions in limine and any written objections to jury instructions proposed by another party.

c. Not later than the Trial Management Conference, counsel shall deliver the exhibit notebooks (with the exhibits marked as described in paragraph 5 above) directly to the clerk of department 7 (or, in her absence, to the secretary for this department).

d. In nonjury trials, trial briefs concerning the legal issues presented by the trial are encouraged. Counsel shall file those briefs directly with the clerk of department 7 (or in her absence, with the secretary for this department) not later than four court days before the final Trial Management Conference.

e. At the Trial Management Conference, the Court shall, among other things:

(1) Confirm the parties' compliance with the terms of this order. In a jury trial, no jury panel will be ordered until the parties have done so. In a nonjury trial, trial will not begin until the parties have done so.

(2) Resolve any disagreement regarding the statement of the case.

(3) Rule on any motions in limine.

(4) Establish the trial schedule, based on the availability of the Court, the parties, and their witnesses. If the Court will be not be available to try the case as scheduled, you will be placed on 24-hour call (unless you make other arrangements because of the time necessary to travel to the courthouse), and the case will be traileed from day to day for up to two weeks. If the case is not called for trial within two weeks of the date for which it is set, the clerk will call you to set a new trial date.

7. TRIAL DATES

a. Short-cause (three hours or less) non-jury trials shall be set on Fridays. All other non-jury trials and all jury trials shall be set on Mondays (or the first court day of the week if Monday is a holiday). No trial dates are set until the parties have exhausted attempts to resolve the case without a trial.

b. A trial date set by the court represents an appointment with the court. Except when permitted by Code of Civil Procedure section 595.2, a trial date cannot be continued solely by the stipulation of counsel. Any requests to either advance or continue the trial date must be by either noticed motion or ex parte application. (Cal. Rules of Court, rules 3.1332 & 3.1335.) Regardless of the form, any such request must establish, either by stipulation or by declaration on personal knowledge, the facts constituting good cause for the continuance. The agreement of counsel, without more, does not constitute good cause. Any such request shall also specify the date or dates to which the trial is sought to be continued, and shall be accompanied by a proposed order.

8. TRIAL

a. The notebook of original exhibits will remain at the witness stand. It should rarely be necessary for counsel to approach the witness.

b. If a party intends to read from a deposition transcript during trial, the original transcript must be lodged with the court on the first day of trial.

c. Except in extremely unusual circumstances, the court does not permit counsel to pass photographs or other exhibits among the jurors before the jurors retire to deliberate. Instead, counsel may use the overhead projector. Counsel must learn how to operate the overhead projector before the beginning of trial.

d. The Court normally conducts trials Monday through Thursday from 9:45 a.m. to noon and from 1:30 p.m. to 4:30 p.m. Counsel should anticipate the need for hearings outside the presence of the jury and should schedule those hearings with the court well in advance. Those hearings will normally be held between 1:15 p.m. and 1:30 p.m., or after 4:30 p.m.

e. Not later than 4:30 p.m. each day of trial, counsel must inform all opposing counsel of the names of witnesses he or she intends to call the next day. The court expects that counsel will extend to one another the courtesy of calling witnesses out of order to accommodate the witnesses' schedules and to utilize the time available if a witness is delayed. However, it is the responsibility of each attorney to present evidence efficiently and continuously until his or her side rests. Do not run out of witnesses before the trial day concludes.

f. Jury fees of \$150 per party are to be deposited with the Court 25 calendar days before the date initially set for trial. (Code Civ. Proc., § 631.) On the first day of trial, each counsel shall deliver to the clerk two checks: one for court reporter fees and one for jury fees. Court reporter fees are \$472 per day (\$236 per half day). Jury fees are at least \$110 per day after voir dire concludes.

9. COPIES

In addition to (1) the copies provided to opposing counsel and (2) any copies to be conformed, counsel shall provide copies of the following documents to the Court as indicated:

- a. Joint witness list: original and 3 copies
- b. Joint exhibit list: original and 3 copies
- c. Exhibits: original (for the witness stand) and 2 copies
- d. Joint pretrial statement: original and 1 copy
- e. Motions in limine: original and 1 copy
- f. Jury instructions: original. When approved, 7 copies for the jury.
- g. Verdict form: original and 1 copy

10. SANCTIONS

Counsel or parties in propria persona who fail to comply with any portion of this order without good cause are subject to monetary sanctions under Code of Civil Procedure section 177.5 and California Rules of Court, rule 2.30(b).

11. REVISIONS TO THIS ORDER

This order is posted on the Riverside Superior Court's website at www.courts.co.riverside.ca.us/trialdept/trialdept.htm. (Or, from the court's home page, follow the links to Attorneys/Litigants to Departmental Trial Procedures to Department 7.) In preparation for the Issues Conference, counsel shall check that website for any revisions to this order.

Dated: January 8, 2007

Craig G. Riemer
Judge of the Superior Court